

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOE, M.D.,

Plaintiff,

v.

THE BOARD OF REGENTS OF
THE UNIVERSITY OF MICHIGAN,
MARIE LOZON, M.D., and
JUSTIN DIMICK, M.D., Individually,

CASE NO. 21-cv-13032-GAD-CI
HON. GERSHWIN A. DRAIN
Hon. Mag. Judge Curtis Ivy, Jr.

Defendants.

CUMMINGS, McCLOREY, DAVIS
& ACHO, P.L.C.

By: **RONALD G. ACHO** (P23913)
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HALL, RENDER, KILLIAN, HEATH &
LYMAN, PC

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MIDWEST LEGAL PARTNERS, PLLC

By: **SAIF R. KASMICKHA** (P74320)
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**PLAINTIFF'S MOTION TO ADJOURN
APRIL 20, 2022 MOTION HEARING [DOC. 44]**

NOW COMES Plaintiff, JOHN DOE, M.D., by and through his attorneys,

CUMMINGS, McCLOREY, DAVIS & ACHO, PLC by RONALD G. ACHO, and for his Motion to Adjourn Motion Hearing [Doc. 44], states as follows:

1. With this Motion, Plaintiff John Doe, M.D. seeks a one-week adjournment of the April 20, 2022 hearing on the following key motions:

- Motion for TRO – [Doc. No.3];
- Motion to Intervene – [Doc. No. 8];
- Motion to Dismiss [Doc. No. 14]; and
- Motion to Dismiss [Doc. No. 15].

2. The one-week adjournment is requested because the undersigned counsel will be out of the State of Michigan and in the State of Florida on a pre-planned vacation that was only recently confirmed with his Grandchildren, and will not be able to attend the hearing in person.

3. The undersigned counsel and Plaintiff's co-counsel, Saif R. Kasmikha, have jointly represented Plaintiff throughout this case. The undersigned has taken a leading and active role in the preparation and extensive briefing of this case. Because of the importance and significance of the key Motions that are currently set for hearing on April 20, 2022, Plaintiff would be prejudiced if the undersigned was not present at the hearing and was not able to participate.

4. Plaintiff believes that the undersigned counsel's presence in person at the hearing is necessary and will aid the Court by counsel's participating in oral

arguments, answering questions and otherwise ensuring that the Court will be properly informed on all issues.

5. Fed. R. Civ. P. 6 (b)(1)(A) allows this Court to extend time upon request of a party with good cause, if the request is made before the original time expires.

6. Likewise, Fed. R. Civ. P. 16 (b)(4) requires “good cause” when requesting an alteration of a scheduling order.

7. Good cause exists for this adjournment so that Plaintiff can be properly represented at the Motion Hearing by the counsel of his choice.

8. Further, Defendants would not be prejudiced by a brief and temporary adjournment of the Motion Hearing.

9. Under Local Rule 7.1, Plaintiff’s counsel sought concurrence from Defendants’ counsel to a one-week extension to the Motion Hearing date, but was not able to obtain concurrence to the relief sought in this Motion.

WHEREFORE, Defendant respectfully requests this Honorable Court enter an order adjourning the Motion Hearing currently scheduled for April 20, 2022 for one week.

Respectfully Submitted,

/s/ Ronald G. Acho
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Dated: March 4, 2022

(P 23913)

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**PLAINTIFF'S BRIEF IN SUPPORT OF HIS MOTION TO
ADJOURN APRIL 20, 2022 MOTION HEARING [DOC. 44]**

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STATEMENT OF THE ISSUE PRESENTED

- I. Should the Court adjourn the April 20, 2022 Motion Hearing for one week because of the unavailability of one of Plaintiff's counsel?

Plaintiff answers "Yes".

Defendants would answer "No".

MOST APPROPRIATE AUTHORITY

Fed. R. Civ. P. 6 (b)(1)(A) 1

Fed. Rule Civ. P. 16 (b)(4)..... 1

STATEMENT OF FACTS

This Honorable Court has scheduled a key Motion Hearing on April 20, 2022 in instant matter on several important and significant Motions. The undersigned counsel is requesting a brief one-week adjournment of the Motion Hearing because he will be out of the State of Michigan and in the State of Florida on a pre-planned vacation that was only recently confirmed with his Grandchildren, and will not be able to attend the hearing in person.

LAW AND ARGUMENT

Grants and denials of adjournments are matters within the sound discretion of the Trial Judge. See Fed. R. Civ. P. 16 (b)(4) (“[a] schedule may be modified only for good cause and with the judge’s consent”). Fed. R. Civ. P. 6 (b)(1)(A), allows this Court to extend time upon request of a party with good cause, if the request is made before the original time expires.

Good cause exists to grant this brief adjournment so that Plaintiff can be fully and properly represented at the Motion Hearing by the counsel of his choice. The undersigned counsel and Plaintiff’s co-counsel, Saif R. Kasmikha, have jointly represented Plaintiff throughout this case. The undersigned has taken a leading and active role in the preparation and extensive briefing of this case.

Because of the importance and significance of the key Motions that are currently set for hearing in this case on April 20, 2022, Plaintiff would be prejudiced

if the undersigned was not present at the hearing and was not able to participate. Plaintiff believes that the undersigned counsel's presence in person at the hearing is necessary and will aid the Court by counsel's participating in oral arguments, answering questions and otherwise ensuring that the Court will be properly informed on all issues. Further, Defendants would not be prejudiced by a brief and temporary one-week adjournment of the Motion Hearing.

CONCLUSION

WHEREFORE, Defendant respectfully requests this Honorable Court enter an order adjourning the Motion Hearing currently scheduled for April 20, 2022 for one week.

Respectfully Submitted,

/s/ Ronald G. Acho

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(P 23913)

Dated: March 4, 2022

LOCAL RULE CERTIFICATION

I, Ronald G. Acho, certify that this document complies with Local Rule 5.1(a), including: double-spaced (except for quoted materials and footnotes); at least one-inch margins on the top, sides, and bottom; consecutive page numbering; and type size of all text and footnotes that is no smaller than 10-1/2 characters per inch (for

non-proportional fonts) or 14 point (for proportional fonts). I also certify that it is the appropriate length. Local Rule 7.1(d)(3).

Respectfully submitted,

/s/ Ronald G. Acho
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(P 23913)

Dated: March 4, 2022

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2022, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification to all parties of record. I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: None.

/s/ Ronald G. Acho
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Dated: March 4, 2022